

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA)	Docket No. 1:21-cr-00195
)	
)	
v.)	ELECTRONICALLY FILED
)	
)	
DEBORAH SANDOVAL)	The Honorable Thomas F. Hogan
SALVADOR SANDOVAL, JR.,)	
Defendant.)	

MOTION FOR DISCOVERY WITH CITATION OF AUTHORITY

AND NOW, comes Defendant, Deborah Sandoval (hereinafter “Ms. Sandoval”), by and through her counsel, Komron Jon Maknoon, Esquire, and files this Motion for Discovery pursuant to Fed.R.Crim.P. 12(d)(2), 16(a), and 26.2, as well as pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963) and all other applicable rules and statutes, and in support thereof avers as follows:

1. On March 9, 2021, Ms. Sandoval was indicted on alleged violations of 18 U.S.C. § 1512(c)(2) and 2 – Obstruction of an Official Proceeding and Aiding and Abetting, 18 U.S.C. § 1752(a)(1) – Entering and Remaining in a Restricted Building or Grounds, 18 U.S.C. § 1752(a)(2) – Disorderly and Disruptive Conduct in a Restricted Building or Grounds, 40 U.S.C. § 5104(e)(2)(D) – Disorderly Conduct in a Capital Building, and §40 U.S.C. § 5104(e)(2)(G) – Parading, Demonstrating, or Picketing in a Capital Building (*See* ECF Doc. No. 19).

2. Ms. Sandoval was subsequently charged by a superseding indictment on December 17, 2021, with violating the same sections with the exception of 18 U.S.C. § 1512(c)(2) and 2 – Obstruction of an Official Proceeding and Aiding and Abetting (*See* ECF Doc. No.38).

3. On March 16, 2022, undersigned counsel respectfully entered his appearance on behalf of Ms. Sandoval (*See* ECF Doc. No. 54).

4. Ms. Sandoval has received some Local Rule 16.1 material.

5. Based on the authorities previously cited, as well as the authorities to follow, Ms. Sandoval requests pretrial discovery of the following:

a. Documents and Materials – The Defendant requests and is entitled to any and all documents and materials relating to each individual count of the indictment which the Government intends to offer in its case in chief or that would be material to the preparation of the defense or that was obtained from the Defendant. *See* Fed.R.Crim.P. 16(a)(1) et seq.

b. The Defendant's Statements – Under Fed.R.Crim.P. 16(a)(1)(A), the Defendant requests and is entitled to disclosure of all copies of any written or recorded statements made by the Defendant; the substance of any statements made by the Defendant that the Government intends to offer in evidence at trial; any response by the Defendant to interrogation; the substance of any oral statements that the Government intends to introduce at trial, and any written summaries of the Defendant's oral statements contained in the handwritten notes of any Government agent; any response to any Miranda warning that may have been given to the Defendant. *See U.S. v. McElroy*, 697 F.2d 459 (2d Cir. 1982)); *Clewis v. Texas*, 386 U.S. 707, 712, n. 8 (1967); *United States v. Curry*, 278 F.Supp. 508, 514 (N.D. Ill. 1967); any other statements by the Defendant that are discoverable under Fed.Crim.P. 16(a)(1)(A); any and all written statements of Defendant made to persons who are not government agents. *See United States v. Caldwell*, 543 F.2d 1333 (D.C. Cir. 1974) *cert. denied* 423 U.S. 1087 (1976); any and all coconspirators statements which the Government intends to introduce at trial where these statements would be attributable to Defendant under Fed.R.Evid. 801(d)(2)(E), *see United States v. Agnello*, 367 F.Supp. 444, 448 (E.D.N.Y. 1973); *United States v. Mays*, 460 F.Supp. 573, 581 (E.D. Tex. 1978);

c. Arrest Reports, Notes and Dispatch Tapes – The Defendant also specifically requests that all arrest reports, notes and dispatch or any other tapes that relate to the circumstances surrounding his arrest or any questioning, be turned over. This request includes, but is not limited to, any rough notes, records, reports, videos, transcripts or other documents in which statements of the Defendant or any other discoverable material is contained. This is all discoverable under Fed.R.Crim.P. 16(a)(1)(A) and *Brady v. Maryland*, 373 U.S. 83 (1963). *See also Louz v. U.S.*, 389 F.2d 911 (9th Cir. 1968); *U.S. v. Johnson*, 525 F.2d 999 (2d Cir. 1975); *U.S. v. Lewis*, 511 F.2d 798 (D.C.Cir. 1975); *U.S. v. Pilnick*, 267 F.Supp. 791 (S.D.N.Y. 1967).

Arrest reports, investigator's notes, memos from arresting officers, dispatch tapes, sworn statements, and prosecution reports about the Defendant are available under Fed.R.Crim.P. 16(a)(1)(B) and (C), Fed.R.Crim.P. 26.2 and 12(i). Preservation of rough notes is specifically requested, whether or not the Government deems them discoverable at this time;

d. Prior Criminal Records – The Defendant requests that the Government provide a copy of the Defendant's prior criminal record, as within possession, custody or control of the Government *See* Fed.R.Crim.P. 16(a)(1)(B); In addition, the Defendant requests the criminal records, if any, of any co-defendants and co-conspirators whether they be charged in the present indictment or not; *See United States v. Curry*, 278 F.Supp. 508 (N.D. Ill. 1967);

e. Brady Material – The Defendant requests all documents, statements, agents' reports, and tangible evidence favorable to the Defendant on the issue of guilt and/or which affects the credibility of the Government's case. Impeachment as well as exculpatory evidence falls within *Brady's* definition of evidence favorable to the accused. *U.S. v. Bagley*, 473 U.S. 667 (1985); *U.S. v. Agurs*, 427 U.S. 97 (1976);

f. Evidence Seized – The Defendant requests any evidence seized because of any search, either warrantless or with a warrant, as discoverable under Fed.R.Crim.P. 16(a)(1)(C);

g. Request for Preservation of Evidence – The Defendant specifically requests that all videotapes, dispatch tapes, or any other physical evidence that may be destroyed, lost, or otherwise put out of the possession, custody, or care of the Government and which relate to the arrest or the events leading to the arrest in this case be preserved;

h. Tangible Objects – The Defendant requests, under Fed.R.Crim.P. 16(a)(2)(C), the opportunity to inspect and copy as well as test, if necessary, all other documents and tangible objects, including alleged contraband, photographs, books, papers, documents, buildings, automobiles, or places, or copies, depictions, or portions thereof which are material to the defense or intended for use in the Government's case-in-chief, or were obtained for or belong to the Defendant;

i. Information Regarding Informants and Cooperating Witnesses – The Defendant requests that the Government provide all relevant information concerning any informants or cooperating witnesses involved in this case. At a minimum, the Government is obligated to disclose the identity and location of any informants or cooperating witnesses, as well as the identity and location of any other percipient witnesses unknown to the Defendant. *Roviaro v. U.S.*, 353 U.S. 53 (1957);

j. Evidence of Bias or Motive to Lie – The Defendant requests any evidence that any prospective Government witness is biased or prejudiced against the Defendant or has a motive to falsify or distort his or her testimony. *Pennsylvania v. Ritchie*, 480 U.S. 39 (1987); *U.S. v. Strifler*, 851 F.2d 1197 (9th Cir. 1988);

k. Impeachment Evidence – The Defendant requests any evidence that any prospective Government witness has engaged in any criminal act, whether or not resulting in a conviction, and whether any witness has made a statement favorable to the Defendant. *See* Fed.R.Evid. 608, 609 and 613. Such evidence is discoverable under *Brady*, 373 U.S. at 83. *See U.S. v. Strifler*, 851 F.2d 1197 (9th Cir. 1988)(witness's prior record), *Thomas v. U.S.*, 343 F.2d 49 (9th Cir. 1965)(evidence that detracts from a witness' credibility); Any and all prior contrary statements given by a prosecution witness, *Giles v. Maryland*, 386 U.S. 66 (1967); Any and all specific evidence which detracts from the credibility or probative value of testimony or evidence intended to be used by the prosecution, *see Thomas v. United States*, 343 F.2d 49 (9th Cir. 1965); *United States v. McCrane*, 537 F.2d 906 (3d Cir. 1975) *reaffirmed on remand*, 547 F.2d 204 (3rd Cir. 1976); *United States ex rel. v. Marzeno v. Gengler*, 574 F.2d 730 (3d Cir. 1978). These materials include but are not limited to:

- 1 A copy of any agreement to cooperate with the government;
- 2 The amount of money paid to the informant for information and expenses;
- 3 Internal memoranda prepared by any agent documenting any informant misconduct or deactivation known as “blacklisting”; and
- 4 Informant conduct agreements.

l. Evidence of Criminal Investigation of Any Government Witness – The Defendant requests any evidence that any prospective witness is under investigation by federal, state, or local authorities for any criminal conduct. *U.S. v. Chitty*, 760 F.2d 425 (2d Cir. 1985);

m. Evidence Affecting Perception, Recollection, Ability to Communicate, or Truth Telling – The Defendant requests any evidence, including any medical or psychiatric report or evaluation, tending to show that any prospective witness' ability to perceive, remember,

communicate, or tell the truth is impaired, any evidence that a witness has ever used narcotics or other controlled substances, or has ever been an alcoholic or any other evidence showing lack of competency or impartiality. *See Giglio v. United States, supra*; *United States v. Fowler*, 465 F.2d 64 (D.C. Cir. 1972); *U.S. v. Strifler*, 851 F.2d 197 (9th Cir. 1988); *Chavis v. North Carolina*, 637 F.2d 213, 224 (4th Cir. 1980);

n. Government Witnesses – The Defendant requests a list of all the Government witnesses who are anticipated or who might be called at trial; *See United States v. Richter*, 488 F.2d 170 (9th Cir. 1973); *see also United States v. Addinizio*, 451 F.2d 49 (3^d Cir. 1971) *rehearing denied* 404 U.S. 1048 (1972); *United States v. McCrane, supra*;

o. Names of Witnesses Favorable to the Defendant - The Defendant requests that names and addresses of any witnesses who have made an arguably favorable statement concerning the Defendant, including negative exculpatory statements (statements of informed witnesses that do not mention the Defendant) or are otherwise favorable to the defense. *Jackson v. Wainwright*, 390 F.2d 299 (5th Cir. 1968); *Chavis v. North Carolina*, 637 F.2d 213, 223 (4th Cir. 1980); *Jones v. Jago*, 575 F.2d 1164 (6th Cir. 1978) *cert. denied*, 439 U.S. 833 (1978); *Hudson v. Blackburn*, 601 F.2d 785 (5th Cir. 1979); *United States v. Wilkins*, 326 F.2d 135 (2^d Cir. 1964);

p. Statements Relevant to the Defense – The Defendant requests disclosure of any statement that may be "relevant to any possible defense or contention" that he might assert. *U.S. v. Bailleaux*, 685 F.2d 1105 (9th Cir. 1982). This includes in particular any statements by percipient witnesses;

q. Jencks Act Material – The defense requests all material to which Defendant is entitled pursuant to the *Jencks Act*, 18 U.S.C. §3500, and Fed.R. Crim.P. 26.2. The Defendant specifically requests pretrial production of these statements so that the Court may avoid

unnecessary recesses and delays for defense counsel to properly use any *Jencks* statements and prepare for cross-examination;

r. Giglio Information – The Defendant requests all statements and/or promises of immunity or favorable treatment, express or implied, made to any Government witnesses, in exchange for their testimony in this case, and all other information that could arguably be used for the impeachment of any Government witnesses. *See Giglio v. United States*, 405 U.S. 150 (1972) and *United States v. McCrane*, 537 F.2d 906 (3d Cir. 1975) *reaffirmed on remand*, 547 F.2d 204 (3d Cir. 1976);

s. Government Examination of Law Enforcement Personnel Files – The Defendant requests that the Government examine the personnel files and any other files within its custody, care or control, or which could be obtained by the Government, for all testifying witnesses, including testifying officers and agents. The Defendant requests these files be reviewed by the Government attorney for evidence of perjurious conduct or other like dishonesty, or any other material relevant to impeachment, or any information that is exculpatory, pursuant to its duty under *U.S. v. Henthorn*, 931 F.2d 29 (9th Cir. 1991). *See U.S. v. Jennings*, 960 F.2d 1488, 1492 (9th Cir. 1992).

t. Information and Documentation Related to Unidentified Agents – The Defendant requests the disclosure of the identities of and any information or documentation relating to undercover and unidentified Central Intelligence Agency (CIA) agents, United States Military Personnel, or other government contractors who may have facilitated the provocation of the Defendant's alleged actions. The Defendant requests this information and documentation because this information will contribute to the Defendant's understanding of the governmental investigative process. *See Brown v. United States EPA*, 384 F. Supp. 2d 271 (D.D.C. 2005); *Mack*

v. Dep't of Navy, 259 F. Supp. 2d 99, 108 (D.D.C. 2003); *Oguaju v. United States*, 351 U.S. App. D.C. 195, 288 F.3d 448, 450 (D.C. Cir. 2002).

u. Expert Witnesses – Pursuant to Fed.R.Crim.P. 16(a)(1)(E), the Defendant requests disclosure of the identities, qualification, and testimony of any expert witnesses the Government intends to call at trial.

WHEREFORE, Defendant, Ms. Sandoval, respectfully requests that this Honorable Court enter an Order directing the attorney for the Government to turn over to the Defendant all the information which the Defendant has requested, as well as any and all information that could be deemed exculpatory within the authorities previously cited.

Respectfully submitted,

s/ Komron Jon Maknoon

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